

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

|                                      |   |                               |
|--------------------------------------|---|-------------------------------|
| <b>THOMAS WAYNE HINTON,</b>          | ) |                               |
|                                      | ) |                               |
| <b>Plaintiff,</b>                    | ) |                               |
|                                      | ) |                               |
| <b>vs.</b>                           | ) | <b>Case No. CIV-13-1183-M</b> |
|                                      | ) |                               |
| <b>JIM BAUMAN, Sheriff; RICHARD</b>  | ) |                               |
| <b>STEPHENS, Jail Administrator;</b> | ) |                               |
| <b>TROY FREEBORN, Captain; and</b>   | ) |                               |
| <b>JANE DOE, Nurse, Logan County</b> | ) |                               |
| <b>Detention Center,</b>             | ) |                               |
|                                      | ) |                               |
| <b>Defendants.</b>                   | ) |                               |

**REPORT AND RECOMMENDATION**

Plaintiff, a state prisoner appearing pro se, has filed this civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. The matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). By order dated November 14, 2013, Doc. 6, at 2, the undersigned noted that Plaintiff's filing was deficient and advised Plaintiff that in order for his action to proceed, he must cure the deficiencies by December 4, 2013. The undersigned also advised Plaintiff that failure to comply could result in the dismissal of his action. *Id.* at 2.

To date Plaintiff has not responded to this Court's order. He has neither cured the deficiencies, nor shown good cause for his failure to do so,

nor requested an extension of time to comply with the order. The undersigned finds that Plaintiff's failure to comply with this Court's order, together with the Court's right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (noting the Court applies Fed. R. Civ. P. 41(b) to allow sua sponte dismissal for "failure to . . . comply with the rules of civil procedure or court's orders").

### **RECOMMENDATION**

Therefore, the undersigned recommends that Plaintiff's action be dismissed without prejudice. Any objection to this Report and Recommendation must be filed with the Clerk of this Court on or before the 8th day of January, 2014, in accordance with 28 U. S. C. § 636 and Federal Rules of Civil Procedure 72. Failure to make a timely objection to this Report and Recommendation waives the right to appellate review of both the factual findings and the legal issues decided herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the Magistrate Judge in the captioned matter.

ENTERED this 19th day of December, 2013.

  
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SUZANNE MITCHELL  
UNITED STATES MAGISTRATE JUDGE